

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 02:06-cv-2040-KHV-JPO
)	
LOUIS M. NOVELLO,)	
)	
Defendant.)	
_____)	

DEFAULT JUDGMENT AGAINST LOUIS M. NOVELLO

Local Rule 77.2(a)(6) and Rule 55(b)(2) of the Federal Rules of Civil Procedure provides that where a party fails to plead or otherwise defend against a complaint, default has been entered, the plaintiff's claim is for a sum certain or for a sum which can by computation be made certain, and the plaintiff has filed an affidavit of the amount due, the clerk may enter default judgment against such person for the claimed amount.

On February 3, 2006, the United States filed a complaint to reduce to judgment the IRS's assessment of Louis Novello's unpaid tax liabilities (Count I), and to foreclose on certain real property owned by Novello (Count II).¹ Novello failed to answer or otherwise defend within the time prescribed by the Federal Rules of Civil Procedure or the Court. Accordingly, the Clerk of Court entered default against Novello on July 17, 2006.² Before the United States could file its motion for default judgment, Novello filed a voluntary bankruptcy petition before the United States Bankruptcy Court for the District of Kansas, staying this case pursuant to 11 U.S.C. § 326.

¹ Dkt. No. 1.

² Dkt. No. 19.

While the matter was stayed, the United States voluntarily dismissed its foreclosure action (Count II), leaving only the claim to reduce federal tax assessments against Novello to judgment (Count I). The Bankruptcy Court lifted the bankruptcy stay on February 27, 2008. The United States now seeks entry of default judgment under Rule 55(b)(1) of the Federal Rules of Civil Procedure and Local Rule 77.2(a)(6) for its sole remaining claim against Novello to reduce his federal tax assessments to judgment.

As set forth in the affidavit and its attachments filed by the United States, the IRS assessed certain trust fund recovery penalties against Novello on June 3, 2002 for the periods ending December 31, 1999; March 31, 2000; June 30, 2000; September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; and September 30, 2001. The United States gave notice to and made demand for payment upon Novello for the assessed TFRPs. To date, Novello has failed to pay those tax liabilities plus interest in their entirety.

For these reasons, **DEFAULT JUDGMENT** is **GRANTED** against Novello in the amount of the unpaid tax liabilities of \$14,333.03 as of the date of February 25, 2008, plus additional statutory accruals and interest allowable by law under I.R.C. § 6621, through the date of payment or other satisfaction. The tax periods covered by this judgment are for the periods ending December 31, 1999; March 31, 2000; June 30, 2000; September 30, 2000; December 31, 2000; March 31, 2001; June 30, 2001; and September 30, 2001.

s/ Kathryn H. Vratil
Kathryn H. Vratil
United States District Judge

Submitted by:

/s Thomas W. Curteman, Jr.

THOMAS W. CURTEMAN, JR.

Virginia Bar #70924

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